Declassified and Approved For Release 2012/02/10 : CIA-RDP90-00965R000201460007-5

ARTICLE APPEARED ON PAGE 1A

WASHINGTON TIMES
8 May 1986

Media prosecution likelihood lessens

THE WASHINGTON TIMES

The likelihood, perhaps never great, that the Reagan administration would prosecute five major news organizations for publishing "leaked" security information, subsided yesterday.

Neither William Casey, the director of the CIA who was hot on the case 24 hours ago, nor officials at the Justice Department, who would make Mr. Casey's case in court, wanted to discuss the case, if there is one, yesterday.

A source within the highest levels of the administration told The Washington Times that consideration of criminal prosecution by the Justice Department is "total nonsense."

Speculation that the Justice Department would prosecute The Washington Post, The Washington Times, Time, Newsweek, and — in some but not all accounts — The New York Times, has circulated in the capital for two days.

Mr. Casey was said to believe that these news organizations had violated federal law against dissemination of information about U.S. security interests, particularly about U.S. intercepts of Libyan radio transmissions just before the American raid on Libyan military targets last month.

The Associated Press quoted unidentified Justice Department officials as saying that Mr. Casey also wants to avert the publication of material concerning the Ronald Pelton spy case.

Mr. Casey went to the Justice Department seeking two lines of legal proceedings: a pre-emptive court order prohibiting The Post from printing a story it has prepared for publication, and criminal prosecution of the four or five news organizations for "past transgressions."

The Justice Department — almost certainly at the direction of Attorney General Edwin Meese — declined to seek the court order, and the question of prosecuting "past transgressions" is said to be "still an open question."

Another high administration source disputed this version of events. He said Mr. Casey had not requested "specific criminal prosecution" under a 1950 statute prohibiting publication of specific intelligence intercepts. This source said Mr. Casey did not, as reported yesterday in The Post, mention prosecution in his conversation with Benjamin C. Bradlee, executive editor of The Post, and Leonard Downie Jr., the managing editor.

Mr. Downie said his newspaper had completed the reporting on a story, as yet unpublished, which Mr. Casey warned during the meeting with the Post editors might lead to prosecution.

Mr. Downie declined to characterize the story, and said The Post had not decided whether to publish it. The Post has on previous occasions refrained from publishing all or part of articles for fear of possible danger to "human life or national security," he said.

Mr. Casey and the CIA were said to have been displeased by stories in The Washington Times about the confirmation hearings for Stanley Sporkin, a former CIA executive who was nominated to the federal judiciary. These stories touched on the Libyan radio intercepts.

Arnaud de Borchgrave, editor-in-chief of The Times, said in response to reporters' questions that Mr. Casey "has reminded us that there is a statute that prohibits publication of specific intelligence intercepts."

"We have reminded him that we are in a delicate area where national security and the First Amendment can conflict, and we are very sensitive to the issue."

Henry Grunwald, editor-in-chief of Time, Inc., said the CIA had refused to answer specific questions about what Time had done to anger Mr. Casey. "It is irresponsible to talk about the possibility of prosecuting Time and other news organizations without telling us what we may be prosecuted for."

A spokesman for The New York Times declined comment because Mr. Casey was "completely unspecific" about which stories in The New York Times he was talking about. A spokesman for Newsweek said his magazine had received no "official complaints" from Mr. Casey or the CIA.

The threat of government restraint of the press, and the inevitable conflict with the First Amendment, was addressed sharply by organizations traditionally sensitive to free-speech issues.

"I hope at this point the notion is Mr. Casey's and not the Justice Department's," said Jane Kirtley, executive director of the Reporters Committee for Freedom of the Press. "My hope is the Justice Department will persuade Mr. Casey this is not the way to go."

The American Civil Liberties Union reacted more harshly. The Reagan administration is "clearly trying to establish the notion that we have an official secrets act and that they can threaten the press to keep them from publishing," said Morton Halperin, director of the Washington legislative office of the ACLU.

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